

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3546 of 1984

Date of decision: 9-7-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JAIBANBIBI

Versus

GUJARAT REVENUE TRIBUNAL

Appearance:

MR JV MEHTA for Petitioners

Ms. P. S. Parmar for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/07/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

Challenge is made by the petitioners to the order of the Gujarat Revenue Tribunal at Ahmedabad dated 10-2-1984 passed in Appeal No.TEN.A.51/81. The brief facts of the case are that the City Survey Officer, Vatva, in city survey enquiry, under his order dated 12-1-1973 decided that the land bearing Chalta No.134, i.e. City Survey No.1645, is open land for the public use. Against that order the petitioner preferred appeal on 6-5-1976 before the Prant Officer, Viramgam prant, which appeal came to be dismissed on the ground of limitation as well as on merits of the case. Second appeal filed by the petitioner before the Collector, Ahmedabad, has also been dismissed on the same grounds. Then the petitioner filed third appeal before the Gujarat Revenue Tribunal at Ahmedabad, which came to be dismissed under the impugned order. Hence this special civil application.

2. All the four authorities concurrently held that the petitioner has failed to give out any sufficient cause from which she was prevented from filing the appeal against the impugned order within the period of limitation. The appeal has been filed by the petitioner after lapse of three years from the date of impugned order. It is true that in the matter of limitation of filing appeal, where there is delay in filing the appeal, the court should have taken liberal approach, but that does not mean that the delay in filing the appeal should be condoned as a matter of right or course. The explanation which has been given by the petitioner for the delay of three years is hardly sufficient to be accepted. The petitioner may be a Pardanasin lady, but this court cannot be oblivious of the fact that irrespective of that there was litigation which was initiated by her and she knows well of the procedure of all these things. In other matters she filed appeal within limitation. In this case she has not filed the appeal in time and the plea has been taken that she being a pardanasin lady, not openly coming in public, could not instruct her counsel for filing appeal against the impugned order in time. That is only an excuse for the sake of making out a ground. It is absolutely a manufactured ground for seeking condonation of delay in filing the appeal. I find sufficient justification in the reason given by the authorities below that the

petitioner might have been encouraged to prefer the appeal after lapse of three years, when in the proceedings in Chalta No.127 she has won the case. When that land was held to be in her private ownership, it has encouraged her to file the present appeal. So it can be said that the delay in filing the appeal was not for the reasons stated above, but the appeal is motivated for her own benefits. All the authorities below have not committed any error, much less an error or illegality apparent on the face of the order, which calls for interference of this Court sitting under Article 226 / 227 of the Constitution of India.

3. In the result this special civil application fails and the same is dismissed. Ad interim relief granted earlier stands vacated. Rule discharged.

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